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7 BEFORE THE OFFICE OF THE INSURANCE COMMISSIONER
8 OF THE STATE OF WASHINGTON
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10 In The Matter Of The Application Regarding
11 The Conversion And Acquisition Of Control
12 Of Premera Blue Cross And Its Affiliates

No. G02-45

DECLARATION OF
RICHARD E. SPOONEMORE

13 I, Richard E. Spoonemore, declare:

14 1. I am a partner in the law firm of Sirianni Youtz Meier &
15 Spoonemore and am one of the attorneys representing the Premera Watch Intervenors
16 in this action.

17 2. On November 11, 2003, I provided written notice to Premera's
18 counsel for our intent to disclose AEO material to Aaron Katz. I followed up this letter
19 with a signed declaration from Mr. Katz in the form contemplated by the Protective
20 Order.

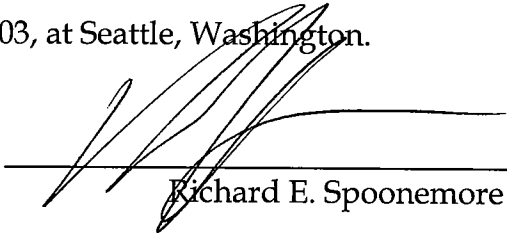
21 3. On November 12, Premera's counsel objected to the disclosure of
22 AEO information to Mr. Katz. This email was only an objection - it did not detail any
23 basis for the objection. I asked counsel for the basis for Premera's objection. Premera's
24 counsel responded by an email attached hereto as *Exhibit A*. I responded to this email
25 in an email attached hereto as *Exhibit B*.
26

DECLARATION OF RICHARD E.
SPOONEMORE -- 1

SIRIANNI YOUTZ
MEIER & SPOONEMORE
719 SECOND AVENUE, SUITE 1100
SEATTLE, WASHINGTON 98104
TEL. (206) 223-0303 FAX (206) 223-0246

1 I declare under penalty of perjury of the laws of the State of Washington
2 that the foregoing is true and correct.

3 DATED: November 25, 2003, at Seattle, Washington.

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6 Richard E. Spoonemore
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Rick Spoonemore

From: Kelly, Tom (SEA) [tomk@prestongates.com]
Sent: Thursday, November 13, 2003 9:48 PM
To: Rick Spoonemore
Subject: Mr. Katz

Importance: High

Rick, let's put your complaint about my alleged tardiness in some perspective: it's your third email to me on the subject in the last 20 hours. I only sent my Amended Objections to you at 10:52 PM yesterday, Wednesday.

I should also note that Paragraph 3(b)(ii)(3) says that the parties shall meet and confer in good faith in person or by telephone within 3 business days of the written objection. So, under the rule, that would mean that we have until the end of the day on Monday to meet. I have no intention of waiting that long, but, like you, I have other things to do in this case and I don't think that complaining about my not getting back to you within 20 hours is productive.

As a preliminary matter, I would appreciate your advising me as to whether Mr. Katz is currently or regularly employed or engaged by persons or entities that compete directly or indirectly with Premera.

Without waiving my right to identify additional reasons if they occur to me, let me tell you what my current objections are to Mr. Katz looking at AEO and Confidential documents and why it would be inappropriate for him to have such access. As you know, AEO documents are very sensitive and should not be disclosed without good reason to do so. So too, Confidential documents, while less sensitive, are still documents that are deserving of protection.

In this case, Mr. Katz wrote his report without looking at any of Premera's Confidential or AEO documents. So there is no reason to think that he needs any AEO documents now. The deadline for the reports is passed. Mr. Katz should not be able to use Confidential or AEO documents to supplement or bolster his opinions: that would be a breach of the deadline.

If you had thought it was important that Mr. Katz have access to Confidential or AEO documents, you could have, and should have, asked that he be given access to such documents earlier. You failed to do so. I suspect that the reason you didn't ask for him to have the documents earlier was that you didn't want to identify who your expert was. That was a decision that you may think brought you some tactical advantage, but you need to bear the consequences of it.

Now it is your turn, as part of the "meet and confer in good faith" and prior to your filing any motion, to give me your reasons as to why you think he should get the documents and to give me your responses to my reasons.

And while I would like to have your responses within 20 hours, let me assure you that I won't be sending you three emails in the interim.

-----Original Message-----

From: Rick Spoonemore [mailto:Rick@sylaw.com]
Sent: Thursday, November 13, 2003 5:58 PM
To: Kelly, Tom (SEA); jeff@coopersmithlaw.com; ardith.lynch@alaska.edu; mmadden@bbllaw.com; Melanied@ATG.WA.GOV; Eleanor Hamburger
Cc: Mitchell, Robert (SEA)
Subject: RE: Draft of letter to Judge Finkle re today's conference decisions

Tom, Judge Finkle ruled that documents should be produced one day, e.g. 24 hours, before the deposition in question. Your letter extends that time period. Please alter your

letter to appropriately reflect Judge Finkle's oral decision.

On a second issue, you still have not gotten back to me on the basis for your objection to Aaron Katz' receipt of confidential and AEO information. This is now my third email seeking a justification for your objection. Please provide the basis of your objection ASAP as time is short, and we want to make a prompt motion to resolve this issue.

--Rick Spoonemore

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To: Rick Spoonemore; 'jeff@coopersmithlaw.com'; 'ardith.lynych@alaska.edu'; 'mmadden@bblaw.com'; 'Melanied@ATG.WA.GOV'

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Subject: Draft of letter to Judge Finkle re today's conference decisions

Here's a draft. Please advise if it is acceptable or if you have any suggestions. I'd like to send this to Judge Finkle by tomorrow afternoon, but will await everyone's responses. <<TEK_L239C==Finkle - second 11-13 letter.doc>>

Tom Kelly

Preston Gates & Ellis LLP

Direct line: 206-370-6683

EXHIBIT A-2

Rick Spoonemore

From: Rick Spoonemore
Sent: Monday, November 17, 2003 5:45 PM
To: 'Kelly, Tom (SEA)'
Subject: RE: Mr. Katz

Tom, my tempered response follows:

1. Aaron Katz is not currently or regularly employed or engaged by persons or entities that compete directly or indirectly with Premera.
2. Aaron Katz, in addition to providing expert testimony, is assisting counsel in analyzing the expert reports of the OIC and Premera. He will be assisting us in preparing the cross-examination of experts retained by other parties. He will be assisting us in preparing for the hearing, including identifying weaknesses in the reports of Premera's experts. In short, he is both a testifying and consulting expert who has been retained to provide support, advice, suggestions and ideas to us.
3. Aaron Katz may also be called upon to offer rebuttal testimony, to the extent allowed by the Commissioner.
4. I disagree with many -- if not most -- of your other statements, but will not address them because they are irrelevant to the issue presented here: whether Premera can meet its burden of proving that it would be inappropriate to allow Mr. Katz to have access to the AEO and confidential material.
5. Please let me know if you want to talk further, or whether this issue is ripe for a motion.

--Rick Spoonemore

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